

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1368/2022

BEFORE: **MISS FAREEHA PAUL** ... **MEMBER (E)**

**Asif Khan S/O Musafar Khan Mohallah Masal Khan P.O Sherpao,
Tehsil Tangi District Charsadda. (Appellant)**

Versus

1. **District Police Officer, Nowshera.**
2. **Regional Police Officer, Mardan.**
3. **Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
..... **(Respondents)**

Mr. Kabirullah Khattak,
Advocate

...

For appellant

Mr. Muhammad Jan,
District Attorney.

...

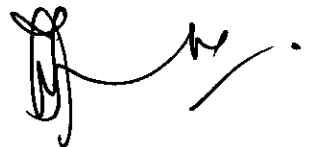
For respondents

Date of Institution.....	19.09.2022
Date of Hearing.....	24.05.2023
Date of Decision.....	24.05.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): Instant appeal has been filed against the order dated 31.05.2018, whereby major penalty of dismissal from service was awarded to the appellant and against the order dated 08.04.2019, whereby his departmental appeal was rejected. It has been prayed that the impugned orders dated 31.05.2018, 08.04.2019 and 03.02.2020 might be set aside and the appellant might be reinstated in service with all back benefits.

2. On submission of the appeal, pre-admission notice was issued to the respondents who submitted their written reply/comments.



Preliminary arguments heard and the case file alongwith connected documents perused in detail.

3. From perusal of the record and arguments presented before this bench, it is found that the appellant was appointed as Constable in the respondent department. Allegedly in the month of February 2018, he became severely ill and due to that he remained absent from his lawful duties w.e.f. 04.02.2018 to 28.02.2018 and 07.03.2018 till 31.05.2018 (total 111 days) without any application or prior permission of the competent authority. Departmental proceedings were initiated against him. Show cause notice dated 26.02.2018 was served upon him which was duly replied by him. He was given the opportunity of personal hearing in the Orderly Room but he could not satisfy the competent authority and was dismissed from service vide order dated 31.05.2018, on the grounds of absenting himself from lawful duty without any leave and prior permission from his senior officers.

4. Feeling aggrieved, the appellant filed departmental appeal which was undated, however, the same was rejected 02.04.2019 being time barred. He then filed Revision Petition which was also rejected on 03.12.2020 on the grounds of being time barred; hence the present appeal on 29.04.2022.

5. Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 is clear that any civil servant, who is aggrieved by any final order, whether original or appellate, made by a departmental authority may prefer an appeal before this Tribunal within 30 days of communication of



such order, but ironically this service appeal was preferred after lapse of more than 02 year and 07 months, which is hopelessly time barred. Although there is an application seeking condonation of delay but the ground taken in the application is allegedly delayed communication of the order dated 03.02.2020, which, according to the appellant, was communicated to him on 14.09.2022, but this ground is just a narration of the appellant, with no supporting material, so as to be considered. Therefore, the application is groundless and is dismissed. As far as seeking leave by the appellant is concerned, no application is available on the record to show that he had applied for any leave from his high ups.

6. In the light of above discussion this bench finds the instant service appeal to be barred by time and its admission for full hearing will be a futile exercise. The appeal is, therefore, dismissed in *limine*. Consign.

7. ***Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal this 24th day of May, 2023.***


(Fareeha Paul)
Member(E)

Fazle Subhan, P.S